

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

WALTER F. SCOTT, )  
Plaintiff, ) Case No. 4:10 CV 1913 RWS  
v. )  
CRICKET COMMUNICATIONS, INC., et al., )  
Defendants. )

## **MEMORANDUM AND ORDER**

This matter is before me on Plaintiff Walter Scott's Motion for Leave to File an Amended Complaint [#39].

Scott filed this lawsuit after his internet service was disrupted for a number of days. He has asserted a claim of race discrimination under 42 U.S.C. § 1981 in conjunction with several state law claims. Scott now seeks leave to file an amended complaint to assert a negligence claim against Defendants. Defendants have not filed a response in opposition to the current motion. “The court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Under the liberal amendment policy of Federal Rule of Civil Procedure 15(a), a district court's denial of leave to amend pleadings is appropriate only in those limited circumstances in which undue delay, bad faith on the part of the moving party, futility of the amendment, or unfair prejudice to the non-moving party can be demonstrated...The burden of proof of prejudice is on the party opposing the amendment.

Roberson v. Hayti Police Dept., 241 F.3d 992 (8th Cir. 2001) (internal quotations and citations omitted).

This matter is in the very early stages of litigation. The Rule 16 Conference for this matter was held on June 17, 2011, the same date on which this matter was referred to alternative dispute resolution. Defendants have not filed a response in opposition to the current motion. As a result, I find that the parties will not be prejudiced by granting Scott leave to amend and I will grant his Motion.

Accordingly,

**IT IS HEREBY ORDERED that** Plaintiff Walter Scott's Motion for Leave to Amend [#39] is **GRANTED**.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 7th day of July, 2011.